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SUBJECT: Proposed Hijacking^{7-10 CUBA} Agreement with Cuba

REF: Bern 2535^{AV} and Cuban Note to Swiss Embassy Havana,
dated September 29, 1970.

1. Embassy should request Federal Political Department to instruct Ambassador Fischli in Havana to deliver the following note to Foreign Minister Roa, in reply to the Cuban note of September 29, 1970 re U.S. proposal for an anti-hijacking agreement.

2. BEGIN QUOTE The Government of the United States of America refers to the declaration of the Revolutionary Government of Cuba as expressed in the note of the Foreign Ministry of Cuba to the Embassy of Switzerland

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By SP-1 NARA Date 5/28/79

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L/ARA:MBFeldman:yt

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10/15/70

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29894

APPROVED BY: J - V Secretary Johnson

CLEARANCES:

E/TT-Mr. Rein^{B.B.}

L-Mr. Stevenson^{MB}

ARA - Mr. Hurwitch^{MB}

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White House - Mr. Kissinger^{h PTC}

S/S - Mr. Curran^{FC}

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- 2 -

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of September 29, 1970, that it is willing to discuss
with the Government of the United States of America an
agreement for the return of hijackers in accordance with
the provisions of Cuban Law 1226 of September 16, 1969,
and that the Government of Cuba is willing to sign an
agreement immediately on the basis of that law. This
declaration, as we understand it, reiterates the position
expressed by the Revolutionary Government of Cuba in its
note/~~XXXX~~ to the Embassy of Switzerland of April 6, 1970 that it
prepared to work out an agreement with the United States.
The Government of the United States of America, as it has
previously communicated, welcomes this declaration and
hopes that the Revolutionary Government of Cuba will be
prepared to conclude a firm understanding as soon as
possible.

3. At this point, it seems useful to review the steps
taken by the United States by which it has consistently

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indicated its willingness to treat the issue within the context of Cuban Law 1226 and by which it has consistently indicated its willingness to arrive at an agreement with Cuba. The Government of the United States of America took the initiative in communicating with the Revolutionary Government of Cuba on this matter/ ^{more than} ~~almost~~ a year ago when on December 5, 1969 it proposed reciprocal action by the two governments for the return of hijackers of ships and planes on the bases specified in Cuban Law 1226. The Government of the United States of America took this initiative because it believes that a well-publicized understanding with the Revolutionary Government of Cuba for the return of hijackers would have a substantial deterrent effect on hijackings, and because it is concerned that unless such a step is taken, the risk of a tragic accident remains a dangerous possibility. When the Revolutionary Government of Cuba requested clarification

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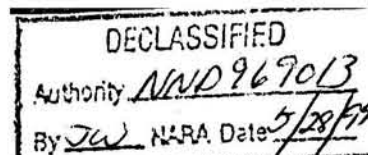
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4 - 68





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- 4 -

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of the United States proposal, the Government of the United States of America provided that clarification on January 14, 1970 and stated that it was prepared to provide any further clarification in order that a mutually satisfactory arrangement relative to the serious problem of hijacking could be achieved as quickly as possible. On April 6, 1970 the Revolutionary Government of Cuba indicated that it was willing to work out an agreement with the United States concerning the return of hijackers based on Cuban Law 1226, but it made no specific comment on the terms of the United States proposal.

4. In order to advance this serious matter to a rapid conclusion, the Government of the United States of America prepared a Memorandum of Understanding which was presented to the Revolutionary Government of Cuba

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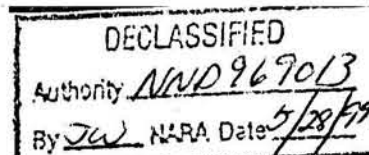
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by the Embassy of Switzerland in its Note No. 108-IE of July 11, 1970. The proposed Memorandum of Understanding, based upon Cuban Law 1226, provides that each government, upon request, will return to the other, in accordance with the procedures established under the laws of the requested state, persons who by force or threat of force hereafter divert to the requested state ships or aircraft registered in the requesting state, each government reserving the right, as specified in Cuban Law 1226, not to return its own nationals and persons to whom it grants political asylum. The Government of the United States of America is still awaiting the comments of the Revolutionary Government of Cuba on that proposal.

5. The Government of the United States of America remains concerned that some day an aerial hijacking may result in a serious air disaster with a tragic loss of lives,

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and it maintains the strong belief that a well-publicized understanding between the United States and Cuba to return hijackers for prosecution would have a substantial deterrent effect upon hijacking that might avert such a disaster. The United States Government has welcomed the indications that the Revolutionary Government of Cuba shares this concern, and for this reason hopes that the Revolutionary Government of Cuba will now be prepared to move beyond general statements of principle to conclusion of an agreement. The Government of the United States of America would, therefore, appreciate a response to its proposed Memorandum of Understanding, which was based directly on Cuban Law 1226. The Government of the United States of America would, of course, be willing to discuss any specific changes in the text of the proposed Memorandum of Understanding that the Revolutionary

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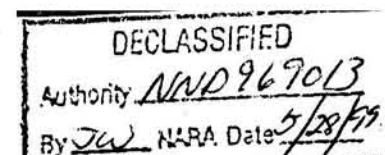
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- 7 -

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Government of Cuba may wish to suggest.

6. More than one year has passed since Cuba promulgated its Law 1226 and stated its willingness to enter into bilateral agreement with other governments to deter hijackings, and more than ~~one year has~~ ~~one month has~~ passed since the Government of the United States took the initiative to propose that the two governments enter into such an agreement. Meanwhile, the danger remains that innocent persons may become victims of an aerial disaster that might have been avoided if Cuba and the United States had made an agreement that would warn potential hijackers to expect to be prosecuted for their criminal actions.

END QUOTE.

7. Background for Ambassador Fischli: Department concurs in your estimate that latest Cuban reply is another attempt to gain time and avoid any blame for continuation

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of current situation in which the two governments have still not reached agreement. As in past, we do not intend permit Cubans enjoy this position and foregoing is intended to maintain maximum pressure for serious negotiations and to recall the record of United States initiatives and persistent attempts to reach an agreement in face of steady Cuban stalling. As you know, Department has recognized from the outset that Cuban law is much broader than what we proposed in that it applies to all persons entering or leaving Cuba in violation of Cuban regulations, and to Cuban ships and planes that may be taken by theft or bribery. We deliberately limited our proposal to hijackers as we are in no rpt no position to agree to return other persons simply because they left Cuba without permission, whether through Guantanamo or some other route. End background for Ambassador Fischli.

END

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